

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2020

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

O.P.No.540 of 2015

M/s.Seahorse Marine Engineering Pvt.Ltd.,
Represented by its Managing Director,
Having its Registered Office at
No.3/5, 36th Street, Thillai Ganga Nagar,
Nanganallur, Chennai 600 061,
Branch Office at New No.28, Josier Street,
Nungambakkam, Chennai 600 034 .. Petitioner

-Vs.-

1. M/s.Owners and Parties interested
in the Vessel Shb Dharti-IV/Cherry 1005-5
Now lying at the Port of Tuticorin
and Represented by its Master and
M/s. Dharthi Dredging and Infrastructure Ltd.,
Rep by its Director,
Having its Registered Office at
Point of view, B.S.Maktha,
Begumpet, Hyderabad 500 016
2. Capt.Rajiv Kumar Mathur,
Master Mariner,
Sole Arbitrator,
6-2-966/3, Hill Colony,
Khairlabad, Hyderabad,
Telangana - 500 004 .. Respondents

Original Petition under Section 34(2) of the Arbitration and Conciliation Act, 1996 praying to set aside the award dated 16.05.2015 in regard to rejection of Rs.20,00,000/- passed by the

Sole Arbitrator Mr.Rajiv Kumar Mathur and to direct the first respondent to pay the cost of the proceedings.

For petitioner ... Mr.K.Mohanamurali

For Respondent-1 ... Mr.M.Santhanaraman

ORDER

The above Original Petition has been filed challenging the Arbitral Award dated 16.05.2015 passed by the Sole Arbitrator.

2. The seat of the Arbitration proceedings was at Hyderabad. The contract entered into between the parties, namely, the work order would also provide that in the event of any dispute or difference, the parties would settle it by initiating the arbitration proceedings as per the Arbitration and Conciliation Act and the clause clearly stipulates the venue of the Arbitration will be at Hyderabad. The claimant whose claim has been rejected is the petitioner before this Court.

3. An initial objection has been taken by the learned counsel for the first respondent with reference to the jurisdiction. He would submit that since the Arbitration clause clearly provides the exclusive venue to be at Hyderabad and as the arbitral proceedings had also taken place at Hyderabad, this Court is not vested with the jurisdiction

to hear the above Original Petition. He would also submit that the first respondent has filed a petition in O.P.No.1648 of 2015 before the Chief Judge, City Civil Court at Hyderabad. He would also rely on a judgment of the Hon'ble Supreme Court reported in **[2017] 7 SCC 678 [INDUS MOBILE DISTRIBUTION PRIVATE LIMITED -VERSUS- DATAWIND INNOVATIONS PRIVATE LIMITED AND OTHERS]**. He would further submit that the present petition be transferred to the Hyderabad to be heard along with O.P.No.1648 of 2015.

4. The learned counsel for the petitioner on the other hand would submit that the cause of action had arisen at Chennai, since all the work orders were received at Chennai and therefore, this Court has jurisdiction to hear the petition to set aside the award.

5. Heard both counsels and perused the materials available on record.

6. The arbitration clause which is encompassed in the work order as Clause 9, would read as follows:-

"9. Dispute Resolution: In the event of any dispute or differences arising out in connection with the work order, the same shall be settled by as per Indian Arbitration and Conciliation Act. The arbitrator's award shall be final and not subject to appeal by any Court and may only be entered in the Court of competent jurisdiction for the execution forthwith. The venue for the arbitration shall be Hyderabad."

7. That apart, the petitioner herein has been engaged for the purpose of repairing / docking works of the first respondent at Tuticorin Old Port. Except for the fact that the petitioner has Office at Chennai and has been receiving work orders in Chennai, it cannot be stated that the Courts at Chennai have the jurisdiction to hear the petition. On the contrary, following the above judgment cited by the learned counsel for the first respondent, namely, **[2017] 7 SCC 678**, it is clear that once the parties agreed to seat of Arbitration, it is only the Hyderabad Court which has jurisdiction to try the proceedings, which the first respondent has rightly invoked. The learned counsel for the petitioner therefore consented for the transfer of the proceedings to Hyderabad.

8. Taking into account the above submission, this Court is inclined to transfer O.P.No.540 of 2015 to the file of the Chief Judge, City Civil Court at Hyderabad to be tried along with O.P.No.1648 of 2015. Accordingly, O.P.No.540 of 2015 shall stand transferred to the file of the Chief Judge, City Civil Court at Hyderabad. Therefore, the Original Petition is disposed of. No costs.

02.01.2020

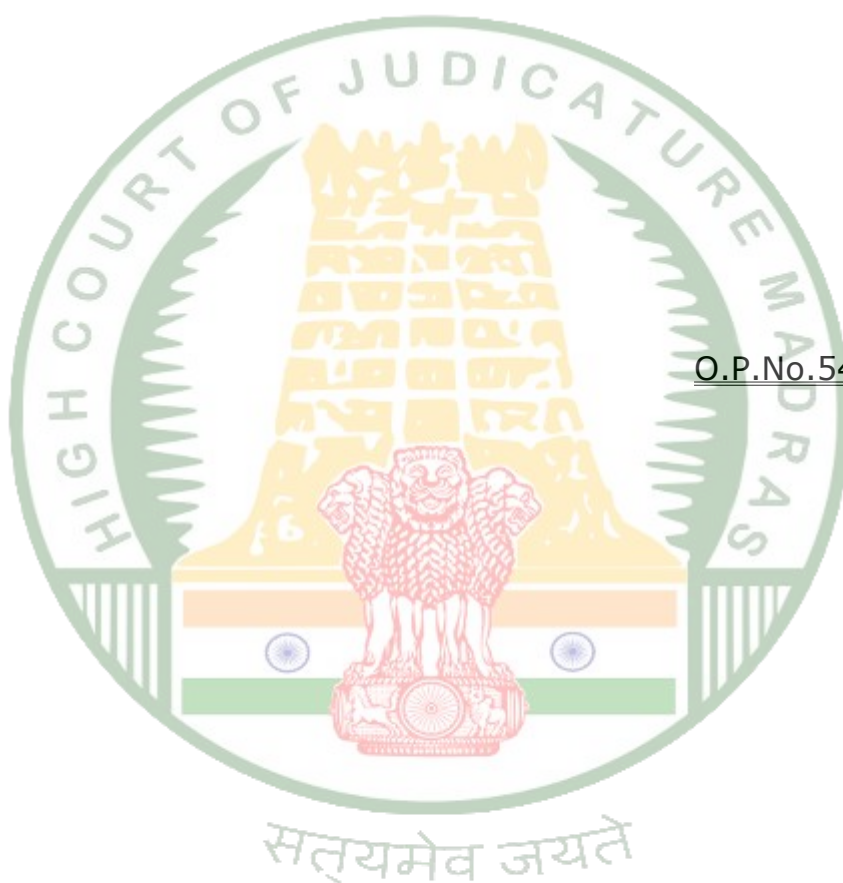
srn



WEB COPY

P.T.ASHA.J

srn



O.P.No.540 of 2015

WEB COPY

02.01.2020